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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/033,818 | 12/20/2001 | David Turner | 05127.00035 | 8443 |

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EXAMINER

PATEL, TAJASH D

ART UNIT PAPER NUMBER

3765

DATE MAILED: 11/03/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,818

Applicant(s)

TURNER ET AL.

Examiner

Tejash D Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berler (US 4,249,268) in view of Hoffman (US 3,257,666). Berler discloses an apparel attachment member defining first and second sides, with the first side being fastened to a protective ornament (46), while the second side includes a plurality of hooks (48), col. 3, lines 15-16 and as shown in figure 6. Further, a garment/apparel (10) defines a plurality of brushed loops (44) which are permanently formed on an outer surface thereof, col. 2, line 66- col. 3, line 24 that releasably engages with the second side of the attachment member, as shown in figure 7. However, Berler does not show the attachment member being secured to a protective equipment.

Hoffman discloses an apparel attachment member (40,44) defining first and second sides, with the first side being fastened to a protective equipment/shoulder pad (12), while the second side includes a plurality of hooks, col. 3, lines 7-20 and as shown in figure 3 and 4. Further, a garment/apparel includes fasteners having a plurality of loops which are permanently attached

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thereto, col. 3, lines 20-22 that releasably engages with the second side of the attachment member, col. 3, lines 25-27 and as shown in figure 5.

It would have been obvious to one skilled in the art at the time the invention was made to to secure the attachment member of Berler to a protective equipment as taught by Hoffman. Doing so, would allow the protective equipment to be secured to the desired portion of the garment, without need of additional complementary fasteners.

With regard to the attachment member having a first side with an adhesive coating. It is well known in the art that attachment members of Berler when viewed with Hoffman, conventionally includes one side with an adhesive surface while the other side includes a plurality of hook thereon. Therefore, it would have been obvious to an artisan in the art to recognize that the first side of the attachment member of Berler was adhered to the protective equipment.

With regard to claims 5, the specification offers no unexpected results arising from the use of acrylic adhesive. Therefore, it is well within the ordinary skill in the art that any suitable adhesive that was available could have been used when the device was constructed.

With regard to claims 3 and 9, it would have been obvious to one skilled in the art that the garment (10) of Berler can be constructed in any desired upper body torso garment as required for a particular application.

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Response to Amendment

3. The arguments filed on August 8, 2003 has been considered. However, this action is being made FINAL for the reasons as follows.

The Applicant argues that “Berler does not teach adhesively attaching an apparel member to the protective equipment” and that “the hook side of apparel of Hoffman is not secured to the inside of the apparel”. The examiner respectfully disagrees, in that combination of Berler in view of Hoffman as stated above, is obvious over the claimed invention, for one it is well within the ordinary skill in the art to recognize that hook and loop patches/apparel members that are secured to protective device of Hoffman are conventional attached by sewing, bonding etc. Therefore, it would have been an obvious that the protector of Hoffman can be secured to a plurality of brushed loops as formed by Berler without the need of an additionally complementary fastener.

Further, with regard to “the hook side of apparel of Hoffman not being secured to the inside of the apparel” as stated by the Applicant, it is pointed out that nowhere in the claims is this limitation to be found.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Tejash Patel at telephone number (703) 306-9184. The fax phone number for this group is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached on (703) 305-1025.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

October 30, 2003



Tejash Patel
Primary Examiner
AU 3765